

HOUSE BILL No. 5815

May 29, 1990, Introduced by Reps. Gire, Barns, Maynard, DeMars, Willis Bullard, Pitoniak, Hertel, Spaniola, Jonker, Dolan, Miller and Hoffman and referred to the Committee on Judiciary.

A bill to amend section 243a of Act No. 328 of the Public Acts of 1931, entitled
"The Michigan penal code,"
as amended by Act No. 422 of the Public Acts of 1980, being section 750.243a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 243a of Act No. 328 of the Public Acts
2 of 1931, as amended by Act No. 422 of the Public Acts of 1980,
3 being section 750.243a of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 243a. (1) As used in this chapter:

6 (A) "AUTO BURGLAR ALARM" MEANS A TUBE THAT CONTAINS A PYRO-
7 TECHNIC COMPOSITION THAT PRODUCES A LOUD WHISTLE, SMOKE, OR BOTH
8 WHEN IGNITED AND THAT MAY CONTAIN NOT MORE THAN 50 MILLIGRAMS OF
9 EXPLOSIVE COMPOSITION THAT PRODUCES A REPORT WHEN IGNITED.

1 (B) "BOOBY TRAP" MEANS A TUBE WITH A STRING PROTRUDING FROM
2 BOTH ENDS THAT CONTAINS NOT MORE THAN 15 MILLIGRAMS OF FRICTION
3 SENSITIVE EXPLOSIVE COMPOSITION AND THAT PRODUCES A REPORT WHEN
4 THE STRINGS ARE PULLED.

5 (C) "CIGARETTE LOAD" MEANS A WOODEN PEG THAT IS COATED WITH
6 A MINUTE QUANTITY OF EXPLOSIVE COMPOSITION, IS SMALL ENOUGH TO BE
7 INSERTED INTO A CIGARETTE, AND PRODUCES A REPORT WHEN IGNITED.

8 (D) EXCEPT AS PROVIDED IN SECTION 243E(2), "FIRECRACKER"
9 MEANS A PAPER WRAPPED OR CARDBOARD TUBE CONTAINING NOT MORE THAN
10 50 MILLIGRAMS OF PYROTECHNIC COMPOSITION THAT PRODUCES A REPORT
11 AND A FLASH OF LIGHT WHEN IGNITED.

12 (E) ~~(a)~~ "Fireworks" means ~~a~~ ANY COMPOSITION OR device
13 made from explosive or flammable compositions ~~used~~ DESIGNED
14 primarily ~~for the purpose of producing~~ TO PRODUCE a visible
15 display or AN audible effect, or both, by combustion, deflagra-
16 tion, or detonation. ~~Fireworks includes class B fireworks and~~
17 ~~class C fireworks.~~ HOWEVER, FIREWORKS DOES NOT MEAN HIGHWAY OR
18 RAILWAY FUSES.

19 ~~(b) "Class B fireworks" means toy torpedoes, railway torpe-~~
20 ~~does, firecrackers or salutes that do not qualify as class C~~
21 ~~fireworks, exhibition display pieces, aeroplane flares, illumi-~~
22 ~~nating projectiles, incendiary projectiles, incendiary grenades,~~
23 ~~smoke projectiles or bombs containing expelling charges but with-~~
24 ~~out bursting charges, flash powders in inner units not exceeding~~
25 ~~2 ounces each, flash sheets in interior packages, flash powder or~~
26 ~~spreader cartridges containing not more than 72 grains of flash~~
27 ~~powder each, and other similar devices.~~

1 ~~(C) "Class C fireworks" means toy smoke devices, toy caps~~
2 ~~containing not more than .25 grains of explosive mixture, toy~~
3 ~~propellant devices, cigarette loads, trick matches, trick noise~~
4 ~~makers, smoke candles, smoke pots, smoke grenades, smoke signals,~~
5 ~~hand signal devices, Very signal cartridges, sparklers, explosive~~
6 ~~auto alarms, and other similar devices.~~

7 (F) "PARTY POPPER" MEANS A PLASTIC OR PAPER DEVICE CONTAIN-
8 ING NOT MORE THAN 15 MILLIGRAMS OF FRICTION SENSITIVE EXPLOSIVE
9 COMPOSITION TO WHICH A STRING IS ATTACHED AND THAT EXPELS PAPER
10 STREAMERS AND PRODUCES A REPORT WHEN IGNITED BY PULLING THE
11 STRING.

12 (G) "SMOKE DEVICE" MEANS A TUBE OR SPHERE CONTAINING NOT
13 MORE THAN 250 GRAMS OF PYROTECHNIC OR OTHER CHEMICAL COMPOSITION
14 THAT PRODUCES WHITE OR COLORED SMOKE WHEN IGNITED.

15 (H) "SNAPPER" MEANS A PAPER WRAPPED ITEM CONTAINING PARTI-
16 CLES OF SAND COATED WITH A MINUTE AMOUNT OF AN EXPLOSIVE COMPOSI-
17 TION THAT PRODUCES A REPORT WHEN DROPPED ON A HARD SURFACE.

18 (I) "TOY CAP" MEANS A DEVICE CONTAINING NOT MORE THAN .25
19 GRAINS OF EXPLOSIVE COMPOSITION THAT EXPLODES WHEN STRUCK BY
20 ANOTHER OBJECT.

21 (J) "TOY PISTOL" MEANS A DEVICE IN WHICH TOY CAPS ARE USED
22 THAT IS CONSTRUCTED SO THAT THE USER'S HAND CANNOT COME IN CON-
23 TACT WITH THE TOY CAP WHEN IT IS PLACED IN THE DEVICE FOR AN
24 EXPLOSION AND THAT IS NOT DESIGNED TO BREAK APART OR TO SHOOT A
25 PROJECTILE WHEN THE EXPLOSION OCCURS.

1 (K) "TOY SNAKE" MEANS A COMPRESSED PELLET OF PYROTECHNIC
2 COMPOSITION THAT DOES NOT CONTAIN MERCURIC THIOCYANATE AND THAT
3 PRODUCES AN ASH WHICH EXPANDS IN LENGTH AS THE PELLET BURNS.

4 (L) "TRICK MATCH" MEANS A MATCH THAT HAS BEEN COATED WITH A
5 MINUTE AMOUNT OF AN EXPLOSIVE OR PYROTECHNIC COMPOSITION AND THAT
6 PRODUCES A SHOWER OF SPARKS, A REPORT, OR BOTH WHEN THE MATCH IS
7 IGNITED.

8 (M) "WIRE SPARKLER" MEANS A WIRE COATED WITH NOT MORE THAN
9 100 GRAMS OF NONMAGNESIUM PYROTECHNIC COMPOSITION OR NOT MORE
10 THAN 5 GRAMS OF PYROTECHNIC COMPOSITION CONTAINING CHLORATE OR
11 PERCHLORATE SALTS THAT PRODUCES A SHOWER OF SPARKS WHEN IGNITED.

12 (N) "EXPLOSIVE COMPOSITION" MEANS A CHEMICAL MIXTURE THAT
13 PRODUCES A REPORT BY DEFLAGRATION OR DETONATION WHEN IGNITED.

14 (O) "GOVERNING BODY" MEANS THE BODY IN WHICH THE LEGISLATIVE
15 POWERS OF A MUNICIPALITY ARE VESTED.

16 (P) "LAW ENFORCEMENT OFFICER" MEANS A PEACE OFFICER OF A
17 POLICE DEPARTMENT OF A MUNICIPALITY, OF A COUNTY SHERIFF'S
18 DEPARTMENT, OR OF THE STATE POLICE.

19 (Q) "MUNICIPALITY" MEANS A CITY, TOWNSHIP, VILLAGE, OR
20 COUNTY.

21 (R) "PERSON" MEANS AN INDIVIDUAL, FIRM, SOLE PROPRIETORSHIP,
22 PARTNERSHIP, CORPORATION, ASSOCIATION, MUNICIPALITY, OR OTHER
23 LEGAL ENTITY.

24 (S) "PYROTECHNIC COMPOSITION" MEANS A CHEMICAL MIXTURE THAT
25 PRODUCES VISIBLE SPARKS OR A REPORT, OR BOTH, BY COMBUSTION
26 RATHER THAN DEFLAGRATION OR DETONATION WHEN IGNITED.

1 (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND
2 (4) and sections 243b, 243c, and 243d, a person ~~, firm,~~
3 ~~partnership, or corporation~~ shall not offer for sale, ADVERTISE,
4 PLACE AN ADVERTISEMENT FOR, expose for sale, sell at retail, keep
5 with intent to sell at retail, DISPLAY, PURCHASE, possess, give,
6 furnish, transport, use, STORE, explode, or cause to explode any
7 of the following:

8 (a) A blank cartridge, blank cartridge pistol, toy cannon,
9 toy cane, or toy ~~gun~~ PISTOL in which explosives are used.

10 (b) An unmanned balloon ~~which~~ THAT requires fire under-
11 neath to propel it and is not moored to the ground while aloft.

12 (c) ~~Firecrackers, torpedoes, skyrockets, roman candles,~~
13 ~~daygo bombs, bottle rockets, whistling chasers, rockets on~~
14 ~~sticks, or other fireworks of like construction.~~ FIREWORKS.

15 (d) Fireworks containing an explosive or ~~inflammable~~
16 FLAMMABLE compound or a tablet or other device commonly used and
17 sold as fireworks containing nitrates, fulminates, chlorates,
18 oxalates, sulphides of lead, barium, antimony, arsenic, mercury,
19 nitroglycerine, phosphorus, or a compound containing these or
20 other modern explosives.

21 (3) A permit ISSUED UNDER SECTION 243B is not required ~~for~~
22 ~~the following:~~ TO PURCHASE, POSSESS, USE, SELL, STORE, OR
23 TRANSPORT OF TOY CAPS, TOY PISTOLS, PARTY POPPERS, OR SNAPPERS.

24 ~~(a) Flat paper caps containing not more than .25 of a grain~~
25 ~~of explosive content per cap, in packages labeled to indicate the~~
26 ~~maximum explosive content per cap.~~

1 ~~(b) Toy pistols, toy cannons, toy canes, toy trick noise~~
2 ~~makers, and toy guns of a type approved by the director of the~~
3 ~~department of state police in which paper caps as described in~~
4 ~~subdivision (a) are used and which are so constructed that the~~
5 ~~hand cannot come in contact with the cap when in place for the~~
6 ~~explosion and which are not designed to break apart or be sepa-~~
7 ~~rated so as to form a missile by the explosion.~~

8 (4) A PERMIT ISSUED UNDER SECTION 243B IS NOT REQUIRED FOR
9 THE PURCHASE, POSSESSION, USE, SALE, STORAGE, OR TRANSPORTATION
10 BY A PERSON 18 YEARS OF AGE OR OLDER OR THE POSSESSION AND USE BY
11 A PERSON LESS THAN 18 YEARS OF AGE UNDER THE DIRECT SUPERVISION
12 OF A PERSON 18 YEARS OF AGE OR OLDER OF ANY OF THE FOLLOWING:

13 (A) ~~(c) Sparklers containing not~~ WIRE SPARKLERS THAT DO
14 NOT CONTAIN more than ~~.0125 pounds~~ 5.67 GRAMS of burning por-
15 tion per sparkler.

16 ~~(d) Flitter sparklers in paper tubes not exceeding 1/8 inch~~
17 ~~in diameter, cone fountains, and cylinder fountains.~~

18 (B) ~~(e) Toy snakes not containing~~ THAT DO NOT CONTAIN
19 mercury, if packed in cardboard boxes with not more than 12
20 pieces per box for retail sale and if the manufacturer's name and
21 the quantity contained in each box are printed on the box. →
22 ~~and toy smoke~~

23 (C) SMOKE devices THAT DO NOT CONTAIN MORE THAN 75 GRAMS OF
24 PYROTECHNIC OR OTHER CHEMICAL COMPOSITION.

25 (d) Booby traps, trick matches, OR CIGARETTE LOADS.

26 (E) ~~(f) Possession, transportation, sale, or use of signal~~
27 ~~flares of a type approved by the director of the department of~~

1 ~~state police, blank~~ BLANK cartridges or blank cartridge pistols
2 specifically for a show or theater, for the training or exhibit-
3 ing of dogs, for signal purposes in athletic sports, OR for use
4 by FEDERAL OR STATE military organizations. ~~, and all items~~
5 ~~described in subsection (2)~~

6 (F) SIGNAL DEVICES THAT ARE APPROVED BY THE STATE FIRE
7 MARSHAL WHEN used by railroads for emergency signal purposes.

8 ~~(g) The sale of fireworks, provided they are to be shipped~~
9 ~~directly out of state pursuant to regulations of the United~~
10 ~~States department of transportation covering the transportation~~
11 ~~of explosives and other dangerous articles by motor, rail, and~~
12 ~~water.~~